

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00057-MR-WCM**

WILLIAM KIMBLE,)
)
Plaintiff,)
)
vs.) **O R D E R**
)
GREGORY SWINK, HUBERT)
CORPENING, and DAVID COTHRON,)
)
Defendants.)
)

THIS MATTER is before the Court on the Motion to Dismiss filed by Defendants Gregory Swink and David Cothron [Doc. 17]; the Magistrate Judge's Memorandum and Recommendation [Doc. 21]; and the Plaintiff's Response and Objections to the Memorandum and Recommendation [Doc. 22].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motion and to submit a recommendation for its disposition.

On February 14, 2022, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a

recommendation regarding the Defendants' motion. [Doc. 21]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The Plaintiff timely filed Objections on February 28, 2022. [Doc. 22]. Defendants Swink and Cothron filed their Reply to the Plaintiff's Objections on March 14, 2022. [Doc. 23].

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby overrules the Plaintiff's Objections and accepts the Magistrate Judge's recommendation that the Motion to Dismiss should be granted and that this entire case¹ should be dismissed.

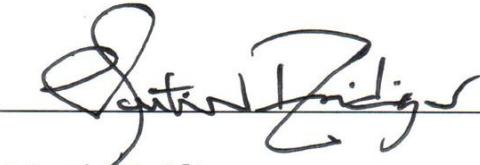
IT IS, THEREFORE, ORDERED that the Plaintiff's Objections [Doc. 22] are **OVERRULED**, and the Memorandum and Recommendation [Doc. 21] is **ACCEPTED**.

IT IS FURTHER ORDERED that the Defendants' Motion to Dismiss [Doc. 17] is **GRANTED**, and the Plaintiff's claims against all of the named Defendants are hereby **DISMISSED WITH PREJUDICE**.

¹ There is no evidence in the record to indicate that Defendant Hubert Corpener was ever served in this action. As the arguments made in the Motion to Dismiss would be equally applicable to Defendant Corpener, in the interest of judicial economy, the Court will dismiss this action as to Defendant Corpener as well.

IT IS SO ORDERED.

Signed: March 17, 2022



Martin Reidinger
Chief United States District Judge

